

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



April 25, 2012

BY HAND

The Honorable John D. Bates
United States District Court Judge
U.S. District Court for the District of Columbia
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, DC 20001

Re: *United States v. Harry L. Thomas, Jr.*, Crim. No. 1:12CR00003-001

Dear Judge Bates:

I am writing as Attorney General for the District of Columbia to supplement the victim loss statements my Office submitted to the U.S. Probation Office as a result of the offenses committed by Harry L. Thomas, Jr., while he was a duly elected member of the Council of the District of Columbia. Taking no pleasure in this responsibility, and without advocating for or against any particular sentence you might impose, I believe this information to be relevant to your impending sentencing decision in this case.

The Statement of the Offense shows that Mr. Thomas repeatedly used his authority as a Councilmember to divert District funds from the DC Children and Youth Investment Trust Corporation ("Trust") into accounts under his personal control, including (but not limited to) \$25,000 that was to be spent on an arts-oriented program to benefit youth in Ward 5; \$306,000 that was earmarked by the Council for youth baseball programs in the District; and another \$15,000 intended for youth programming. He also used his authority as a Councilmember to steer over \$100,000 in District funds intended for prevention of youth drug abuse to the Young Democrats to cover the expenses of a presidential inaugural ball in our city hall, the John A. Wilson Building.

The direct monetary losses suffered by the District of Columbia government as a result of these offenses have been set forth separately in the Office of the Attorney General's victim loss statements to the U.S. Probation Office. The District's total loss figure of \$446,000 (less \$70,000 in reimbursement from Mr. Thomas received to date) exceeds by \$92,500 the \$353,500 restitution amount set forth in the plea agreement in the case.

This \$92,500 difference appears to be the result of the District's including, as part of its losses, the entire \$100,000 amount that was diverted from lawful purposes in order to help cover the cost of the presidential inaugural ball. In contrast, the plea agreement's restitution figure appears to include not the entire \$100,000 amount, but only the \$7,500 portion that was paid to Mr. Thomas to reimburse him personally for inaugural-related expenses he advanced. The District's calculation is the one that is consistent with the purpose of a victim loss statement, which is to itemize what the victim lost, not what the offender may have personally gained. Thus, it is our view that the entire \$100,000 amount diverted by Mr. Thomas for the Young Democrats represents an unreimbursed loss to the District.

Mr. Thomas' conduct has resulted in other unreimbursed costs to the District that are not reflected in its victim loss statement. The exposure of his conduct by our civil investigation and the U.S. Attorney's subsequent criminal investigation led to his resignation from the Council on January 5, 2012. As a result, the District's Board of Elections and Ethics has found it necessary to request additional funding of \$318,000 to cover the cost of a special election to fill the seat vacated by Mr. Thomas. Even so, the people of Ward 5 will be without the constituent services of a Councilmember from their Ward until sometime after the election is held on May 15, 2012.

I should also note that although Mr. Thomas agreed in a civil settlement, following the investigation and filing by this Office of a civil enforcement action, to reimburse the District a total of \$300,000 in six periodic payments of \$50,000 over a period of two-and-a-half years, he is not current on his obligation. He paid the initial \$50,000 and then belatedly paid another \$20,000, but he is delinquent with respect to \$30,000 of the \$230,000 he still owes to the District.

In fairness, I also note that even the funds that Mr. Thomas diverted to accounts under his control were not used entirely for his personal benefit. Mr. Thomas's counsel has provided information to us indicating that many of the payments that Mr. Thomas made from the Team Thomas bank account were intended to serve his community, such as a \$3,000.00 payment in June 2008 for the D.C. Boys Choir's pre-Olympic trip to Beijing, China, and a \$6,575.00 payment in August 2008 for Dunbar High School varsity jackets. We accept those representations. I also note Mr. Thomas's extensive volunteer service benefiting youth in our city over the years, his many good deeds as a Councilmember on behalf of his constituents, and the governmental benefits he has helped to secure for District of Columbia residents through his work on the Council.

But there is no gainsaying the breach of public trust that Mr. Thomas's illegal conduct represents. All of Mr. Thomas's unlawful conduct, as described in the Statement of the Offense in this case, pertained to his diversions of District grant funds administered by the Trust, a nonprofit organization based in the District of Columbia. Pursuant to special statutory authority, D.C. Official Code § 2-1551, *et seq.*, the Trust has served for over a decade as the District's primary grant-making agency for youth programs in the District of Columbia. As a Councilmember, Mr. Thomas was in a position to help guide the Trust's work on behalf of the city's youth, through both legislation and informal consultations with Trust officials.

The Honorable John D. Bates

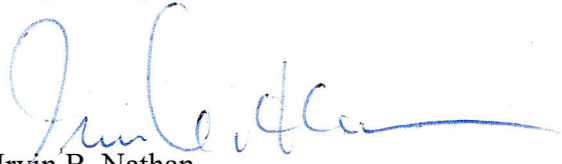
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By using his authority as an elected official to divert District funds from their legitimate purposes and obtain most of the funds for his personal benefit, and by targeting Trust funds that were specifically intended to benefit our city's youth, Mr. Thomas engaged in an abuse of power that has shocked and saddened the people of the District of Columbia. His conduct has contributed to an erosion of confidence in the many honest, hardworking and dedicated local government officials, who are working daily to address the community's most pressing problems. This collective loss cannot be measured simply by the dollar value of misappropriated funds or the cost of a special election.

In this letter, I have tried to present my office's views in an objective and dispassionate way, recognizing Mr. Thomas's significant volunteer and public service work for the city, while discharging our responsibility to the city's residents. I hope that this information is helpful to the Court.

Respectfully,



Irvin B. Nathan

Attorney General for the District of Columbia

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